J.F 238–92

G. R. S. IX-5]

Previous references.

~~191~~ 1892-3

(Courts)

File No. 14 — 1892

Serial Nos. 1-2

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 – 2

In **~~Part~~ B for** Dec 1892

SUBJECT.

Procedure to be adopted by the Magistrates in ~~[illegible]~~ hearing Police & Criminal cases.

W D 88—GPB—50,000—24-7-16

Indexed 12/1

Countersigned

Proceedings of the Government of His Highness the Maharaja of Mysore, (Judicial),—dated 22nd April 1891.

READ THE FOLLOWING PAPER :—

Report on the Administration of Criminal Justice in Mysore for the year 1889.

No. 1168—14, DATED 22ND APRIL 1891.

ORDER THEREON.—Consequent on the appointment of a separate Amildar for the City of Mysore and an additional Assistant Commissioner in the Bangalore District and the investiture of two Munsiffs with magisterial powers, the number of Criminal Courts at the end of 1889 was 4 more than in the previous year 1888. But this entailed no additional expenditure on Government. On the contrary the charges have been Rs. 5,498 less than in the previous year. The receipts aggregated Rs. 84,123 or Rs. 9,210 more than those of 1888. Government desire that details of receipts and expenditure should be given in future reports.

2. There was a slight decrease in the number of offences reported and a slight increase in the number returned as true, the figures being 15,251 and 12,398 respectively, as compared with 15,487 and 11,698 in 1888. The following table compares by Districts the offences reported and those returned as true, with the figures of the previous year :—

	1888.			1889.		
	Offences reported.	Cases returned as true.	Percentage of true to reported cases.	Offences reported.	Cases reported as true.	Percentage of true to reported cases.
Bangalore	3,196	2,665	83·4	3,482	2,984	85·7
Kolar	1,399	1,075	76·8	1,598	1,215	76·03
Tumkur	1,316	1,141	86·7	1,248	1,021	81·8
Mysore	3,174	2,373	74·8	3,110	2,744	88·2
Hassan	2,303	1,523	66·1	2,082	1,796	86·2
Shimoga	1,576	1,123	71·3	1,453	1,060	72·9
Kadur	1,628	1,167	71·7	1,403	956	68·1
Chitaldroog	895	631	70·5	875	622	71·09
Total.....	15,487	11,698	75·5	15,251	12,398	81·3

It is satisfactory to find that the percentage of true to reported cases for the whole Province was larger in 1889 than it was in 1888, but the results recorded in the Districts of Tumkur and Kadur are not satisfactory. The following statement

compares the number of persons convicted in 1888 and 1889 in respect to the more heinous offences :—

Offences.	No. of Persons convicted.		Increase or Decrease in 1889.
	1888.	1889.	
Murder	5	32	+ 27
Culpable homicide not amounting to murder	8	10	+ 2
Grievous hurt	10	85	+ 75
Robbery and dacoity	22	56	+ 34
Perjury	10	23	+ 13

It is to be regretted that there was a large number (as many as 8 cases involving 28 persons) of robbery and dacoity in the Kolar District.

3. The number of cases in which complaints were dismissed *in limine* under Section 203 of the Criminal Procedure Code fell from 3,664 to 3,220.

4. The total number of persons brought to trial was 24,883 or 778 more than in the previous year. Of these 13,109 or about 65 per cent were acquitted or discharged.

5. It is observed that almost all the magisterial work of the Province was performed by the subordinate Magistrates, the District Magistrates having tried but 229 persons out of a total 25,117 disposed of. The Government would be glad if the District Magistrates would take up more cases. The Police and Magisterial work of a District increases in efficiency in proportion to the frequency with which District Magistrates take up criminal cases for disposal by themselves.

6. The total number of witnesses examined in the Magistrates' Courts was 42,501 against 43,177 in the previous year. Only 158 were detained beyond the third day. The amount paid to witnesses on account of diet and travelling allowance was only Rs. 128, though slightly in excess of that of the previous year.

7. The number of Sessions cases brought for trial rose from 80 to 96 and the number of witnesses examined in these cases was 995 against 656 in the previous year. This accounts for the slight increase in the average duration of cases which in the year under review was 2·53 against 2·20 days in 1888. The percentage of convictions obtained was larger in 1889, but the proportion of acquittals (59 per cent) is still high and requires investigation.

8. There has been a decrease in the number and proportion of persons sentenced to terms of imprisonment not exceeding 15 days. The percentage of sentences of whipping has slightly increased, the punishment having been inflicted on 125 persons against 106 in the previous year. No person was sentenced to solitary confinement during the year.

9. The total number of persons sentenced to pay fine was 7,182 against 7,445 but the aggregate amount of fines imposed exceeded the figure of 1888 by Rs. 3,663. A very large percentage of this fine was realised and the amount paid on conviction as compensation to complainants also increased, as compared with the previous year.

10. The miscellaneous proceedings taken under the Code of Criminal Procedure call for no remark.

11. No European British subjects were tried during the year by Justices of the Peace.

12. The appellate work of the Courts subordinate to the Chief Court rose during the year. There were for disposal 717 appeals affecting 1,137 persons as against 551 appeals affecting 1,055 persons in the previous year. In the Magistrates' Courts about 43 per cent of the appeals succeeded either wholly or in part, while in the Courts of the Sessions Judges the proportion is about 21·3 per cent.

13. The Chief Court as Court of Original Jurisdiction had to dispose of 55 cases affecting 90 persons committed for trial, as against 62 cases, affecting 99 persons in 1888. All of them were disposed of during the year, the Judge concurring in the verdict of the Jury in all the cases tried with Jury and with the opinions of Assessors in 18 out of 23 cases tried with Assessors. The percentage of convictions fell from about 50 in 1888 to 38 in the year under review.

14. The aggregate amount of fines imposed was Rs. 2,200, but no portion of this fine was realized during the year. The cause should have been explained.

15. On the Appellate side 133 appeals were instituted against 121 in 1888, 3 being from judgments of acquittal under Section 417 of the Criminal Procedure Code. The results of the appeals disposed of are shown in the following statement:—

	Cases.	Persons.	Percentage.
Appeals registered	22	26	12·74
Sentences appealed against confirmed	52	76	37·25
Sentences appealed against reversed	33	55	26·96
Sentences appealed against reduced or altered	14	14	6·37
New trial ordered	1	1	·49

The average duration of appeals (32·48 days) was much larger than in Sessions Courts, where it was only 7 days.

16. Nine cases were referred by Sessions Judges, under Section 374 Criminal Procedure Code, for confirmation of sentence of death, as compared with two cases in 1888. The sentences were confirmed in the case of 6 persons, one of them afterwards having his sentence remitted into one of transportation for life by His Highness the Maharaja in the exercise of the Royal prerogative of mercy. The sentences of the other 3 persons were commuted to transportation for life by the Chief Court.

17. In the exercise of its Revisional Jurisdiction, the Court had 287 cases against 356 in the preceding year. 75 of these cases were sent up by Sessions Judges and District Magistrates, while the rest were entertained by the Court either *suo motu* or on the petition of parties. Their disposal calls for no remark.

18. On the whole the Government are satisfied with the administration of criminal justice in 1889. The number of reported cases and the actual number of persons found guilty and convicted was smaller than in 1888, the average duration of cases before Magistrates and appellate courts was shorter, 36,000 out of 42,000 witnesses were discharged by Magistrates after detention of only one day, and a large number of sentences were confirmed on appeal.

A. SRINIVASACHARLU,
Under-Secretary.

To—The Registrar of the Chief Court of Mysore.

Exd.—A. N. S.

1891.

GOVERNMENT OF MYSORE

JUDICIAL.

PROCEEDINGS.

Dated 22nd April 1891.

No. $\frac{1168.}{14.}$

Reviewing the Report on the Administration of Criminal Justice in Mysore for the year 1889.

Mysore Govt. Central Press, Bangalore.—11-5-91.—80.

I

(4)

(General Serial No. 30.)

1892-93 4150

OFFICE OF THE
24 OCT 92

From The District Magistrate
Bangalore

Eh 14-92-1

To

The Chief Secretary to the Dewan
of Mysore.

Dated 17th } October 1892.
Despatched 24th }

Received

Enclosures No.

General No.
D No. 351.

In reply to Pro. of Govt No. 1168-14 d/22-4-91 SUBJECT.

Submits for reconsideration, reasons assigned, the orders of Government directing the taking up and disposal of a greater number of Criminal cases by the District Magistrate.

Judl. Bor.
Mark 24/10/92
To The Current Record.

Please put up
Govt. Pro: No 1168-14
d/22-4-92.
M.A
27/10.

Spare copy of the Govt. Proceedings sent.
28-10-92

References (to be entered only in the Dewan's Office).

D. No. 351. (4)

Deputy Commissioners
Office
Bangalore District
17th October 1892

To
The Chief Secretary to
the Dewan of Mysore

Sir,

In reference to paragraph
5 of the Proceedings of the Government
no. 1168-14 dated 22nd April 1891 —
passing orders on the administration
of Criminal justice in 1889, I
have the honor, with all deference
to the opinion expressed by the
Government, to submit that
the Government may be pleased
to reconsider their order in the
light of what I propose to
submit in the following lines.
I should not have troubled

the Government[3] but for an
order of the Chief Court drawing
my attention to the above order
and requiring me to obey it -

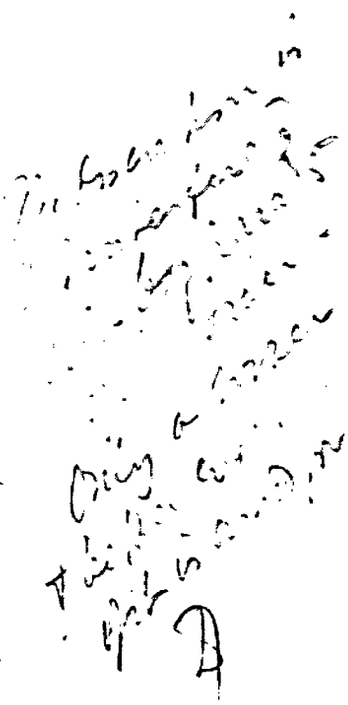
2. In all Police
cases, I get reports, as head
of the District Police, of the
investigation made by the Police
at every Stage of the investigation.
Thus, if I am to try a Police
case, by the time it comes before
me in my judicial capacity,
I shall have become acquainted with
the Police version of the case
which cannot but influence
my trial of the case. It is
hardly fair to the accused that
a magistrate who has unavoi-
-dably prejudged the case, should

sit in judgment on him - It
is for this reason that, as a rule,
I abstain from trying police
cases. Though I do not try them
I watch the trials closely through
Police reports and this is known
to the Police and the Subordinate
magistracy alike. I believe
that this close and careful
watching produces the result
which the Government anticipate
from the District magistrate
trying cases. From this it
is not to be understood that
I would absolutely abstain
from trying all cases: there
may arise a case, the importance
of which, may overbalance
the objection to my trying a

Stated above.[5] Such cases I of course take on my own file.

3. The trial of a case involves the expenditure of much time, especially on recording evidence, which I think is spent to greater advantage on appeals, revision petitions calendars and other general supervision.

4. The district magistrate ought, I think, to be given discretion to decide whether, or not, cases arising in his district are of sufficient importance to justify his spending his time on them.



I have the honor to be
Sir
Your most obedient Servant

Deputy Commissioner & District magistrate

mms

6

(5)

GH 14-92-2

Proceedings of the Govt of
H.H. the Maharaja of Mysore

Read :—

Letter from the Deputy
Commissioner, Bangalore
District, D. 351 dated 17th
October 1892.

No 11875
J592-92

Order No dated
Bangalore 20th Decr 1892.

The Government
see no good reason to re-
-consider para 5 of their
Proceedings No 1168-14
dated 22d April 1891.

2. Adverting to the re-
-marks made by the
Deputy Commissioner
in para 2 of the foregoing
Letter it is observed ~~that~~
~~through reports of Police~~
~~investigations are sub-~~
~~-mitted at every stage~~
~~to Deputy Commissioners~~

~~very few of them care-~~
~~-fully go through such~~
~~reports. If they do, it is~~
~~so much the better as~~
~~by becoming acquaint-~~
~~-ed with the Police ver-~~
~~-sion of the case they~~
~~are saved the trouble of~~
~~reading the Police special~~
~~diaries when they try~~
~~the cases as magistrates~~
~~which they are per-~~
~~-mitted to do by Section~~
~~of the Code of Crimi~~
~~-nal Procedure. A~~
that a
perusal of the Police Diaries or
reports is not at all
likely to influence the
~~Deputy Commissioners~~ Asst Magts
in the trial of a case,
as it does not require
more than an ordinary
judicial frame of mind
to keep one's mind open

Submitted for Mr Dennis further orders -

The Drains in question are not merely special Drains but also Public weekly Drains & frequently also Cesspits & Sports made in the Blue Book -

This being so, the remarks ~~Clerk~~ first recorded by the Mr Dennis & here scored out both ~~and~~ with regard more comprehensive & therefore better ~~than~~ than those recorded in his presence

Mr Dennis

Fair Copy to Architect 12/12

to the reception of judi-
-cial evidence; and as
reference to the said diaries,
~~will sometimes enable~~ which is permitted
the district magistrates by s 172 of the Code
to arrive at the truth — of Criminal Procedure
and appreciate the — to aid the Magistrate
whole evidence offered in the course of a
during the trial correct- trial of a Criminal
-ly so as to guard — Case, the Question
against miscarriages ~~of justice~~. raised by the Defence
may lose their force

2 It is of the utmost importance that District Magistrates should take up a fair share of the original criminal work of their Districts, but the use of their discretion, ~~of the District magistrates~~, in the choice of cases for trial by themselves, is not interfered with by para 5 of the Procedure Rules referred to above. Only a

wiser, better and
more frequent exer-
-cise of it is called for

Chief Secretary

hb

The Deputy Comm:r
Bangalore Distt.

C/f 1.

20/12

Proceedings of the Government of His Highness the Maharaja of Mysore, (Judicial),—dated 26th December 1892.

READ :—

Letter from the Deputy Commissioner, Bangalore District, D. 351, dated 17th October 1892:—

In reference to paragraph 5 of the Proceedings of the Government No. 1168—14, dated 22nd April 1891, passing orders on the administration of Criminal Justice in 1889, I have the honor, with all deference to the opinion expressed by the Government, to submit that the Government may be pleased to reconsider their order in the light of what I purpose to submit in the following lines. I should not have troubled the Government but for an order of the Chief Court drawing my attention to the above order and requiring me to obey it.

2. In all Police cases, I get reports, as head of the District Police, of the investigation made by the Police at every stage of the investigation. Thus, if I am to try a Police case, by the time it comes before me in my Judicial capacity, I shall have become acquainted with the Police version of the case which cannot but influence my trial of the case. It is hardly fair to the accused that a Magistrate who has unavoidably prejudged the case, should sit in judgement on him. It is for this reason that, as a rule, I abstain from trying Police cases. Though I do not try them, I watch the trials closely through Police reports and this is known to the Police and the subordinate Magistracy alike. I believe that this close and careful watching produces the result which the Government anticipate from the District Magistrate trying cases. From this it is not to be understood that I would absolutely abstain from trying all cases, there may arise a case, the importance of which, may overbalance the objection to my trying as stated above. Such cases, of course I take on my own file.

3. The trial of a case involves the expenditure of much time, especially on recording evidence, which I think is spent to greater advantage on appeals, revision petitions, calendars and other general supervision.

4. The District Magistrate ought, I think, to be given discretion to decide whether, or not, cases arising in his district, are of sufficient importance to justify his spending his time on them.

No. 11875—J. 592—92, DATED, BANGALORE, 26TH DECEMBER 1892.

ORDER THEREON.—The Government see no good reason to reconsider para 5 of their Proceedings No. 1168—14, dated 22nd April 1891.

2. Adverting to the remarks made by the Deputy Commissioner in para 2 of the foregoing letter it is observed that a perusal of the police diaries or reports is not at all likely to influence the District Magistrates in the trial of a case, as it does not require more than an ordinary judicial frame of mind to keep ones mind open to the reception of judicial evidence ; and as a reference to the said diaries is permitted by Section 172 of the Code of Criminal Procedure to aid the Magistrates in the enquiry or trial of a Criminal case, the objections urged by the Deputy Commissioner lose their force.

3. It is of the utmost importance that District Magistrates should take up a fair share of the original criminal work of their Districts ; but the use of their discretion in the choice of cases for trial by themselves, is not interfered with by para 5 of the Proceedings quoted above. Only a wiser, better and more frequent exercise of it is called for.

T. ANANDA ROW,
Chief Secretary.

To—The Deputy Commissioner, Bangalore District.
The Deputy Commissioners of other Districts.

Exd.—M. A.

1892.

GOVERNMENT OF MYSORE.

JUDICIAL.

PROCEEDINGS.

Dated 26th December 1892.

No. 11875 / J. 592-92.

Passing orders on the subject of Deputy Commissioners trying Police cases and other Original Criminal cases of their Districts.

Mysore Govt. C. Press, Bangalore.—24-1-93.—120.